

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 12-0944 RB

SOPHIA MONIQUE ZAYAS,

Defendant.

ORDER

THIS MATTER is before the Court on Ms. Zayas’s Motion for Evidentiary Hearing, filed on September 7, 2017 (Doc. 215). The Court held a hearing on this matter on Wednesday, November 1, 2017. (*See* Doc. 218.) For the reasons described below, the Court will deny the Motion as moot, direct the parties to hold an interview as discussed at the hearing, and Ms. Zayas shall file any follow-up motion no later than December 1, 2017.

Defendant Sophia Zayas moves the Court for “an evidentiary hearing to allow her to discover and develop the exculpatory evidence” from her codefendant and husband. (Doc. 215 at 1.) Ms. Zayas contends that Mr. Zayas waived his Fifth Amendment rights when he sent his January 29, 2017 letter to the Court. (*Id.* at 2; *see also* Doc. 206.) The Government opposes Ms. Zayas’s motion on two grounds and argues: (1) Mr. Zayas did not waive his Fifth Amendment rights; and (2) Ms. Zayas is not entitled to an evidentiary hearing. (Doc. 216 at 1–2.)

During the hearing on Ms. Zayas’s Motion, the Court heard argument from the attorneys for Ms. Zayas, Mr. Zayas, and the Government. Counsel for Ms. Zayas, Ms. Stillinger, conveyed that she had heard repeated indications from Mr. Zayas that he wanted to speak. It was clear to the Court that Mr. Zayas and his attorney, Ms. Milner, were at odds with respect to Ms. Milner’s

advice to him. The Court gave Mr. Peter Zayas and Ms. Milner time to speak off the record. When they returned, Ms. Milner stated that Mr. Zayas is willing to allow Ms. Stillinger to interview him in the presence of the Government. The Court directed the parties to record the interview. The Court also asked that at the interview, Ms. Milner give her advice to Mr. Zayas one more time regarding the consequences of waiving his Fifth Amendment rights.

THEREFORE,

IT IS ORDERED that Ms. Zayas's Motion for Evidentiary Hearing (Doc. 215) is **DENIED AS MOOT;**

IT IS FURTHER ORDERED that Ms. Zayas shall file any motion resulting from the interview of Mr. Zayas no later than **Friday, December 1, 2017.**



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE